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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,522	03/09/2004	Joseph F. Poduslo	01017/30016A	2632
4743 7590 01/28/2009 MARSHALL, GERSTEIN & BORUN LLP 233 SOUTH WACKER DRIVE 6300 SEARS TOWER CHICAGO, IL 60606-6357			EXAMINER CHERNYSHEV, OLGA N	
			ART UNIT 1649	PAPER NUMBER
			MAIL DATE 01/28/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/796,522

Applicant(s)

PODUSLO ET AL.

Examiner

Olga N. Chernyshev

Art Unit

1649

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 74-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 74-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 13, 2008 has been entered.

Response to Amendment

2. Claims 31, 33-48 and 51-73 have been cancelled and claims 74-77 added as requested in the amendment filed on November 13, 2008. Following the amendment, claims 74-77 are pending in the instant application.

Claims 74-77 are under examination in the instant office action.

3. Any objection or rejection of record, which is not expressly repeated in this action has been overcome by Applicant's response and withdrawn.

4. Applicant's arguments filed on May 22, 2008 have been fully considered. New grounds of rejections directed to newly presented claims are set forth below.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 74-77 are rejected under 35 U.S.C. 102(b) as being anticipated by Schenk, 1999, WO99/27944 ('944 document from hereafter).

Claims 74-77 are broadly drawn to a therapeutic composition comprising an amyloid-beta (A β) polypeptide linked to an antibody which is polyamine modified. The '944 document discloses therapeutic compositions comprising A β polypeptides alone and fused to different polypeptides, which include antibodies, monoclonal, humanized and polyamine modified, see reasons of record regarding the '944 document being applied to the previous pending claims in the previous office actions of record. With respect to claim 76, because the antibody recited therein is identified as having binding affinity for amyloid comprising residues 1-39 of SEQ ID NO: 1, that particular antibody broadly encompasses epitopes outside of the SEQ ID NO: 1 and therefore reads on any antibody including the antibodies of the '944 document. Thus, the instant claimed invention is fully anticipated by the '944 document.

Allowable Subject Matter

7. Claim 76 directed to a therapeutic composition comprising an amyloid beta (A β) polypeptide linked to an anti-A β antibody with specific binding affinity for amyloid peptide of SEQ ID NO: 1 wherein the antibody is polyamine modified and in a sterile pharmaceutically

acceptable carrier or excipient, would be allowable if rewritten in independent form to include all of the limitations of the base claim. Claims 75 and 77 would be allowable as well if rewritten in a form dependent from the amended claim 76.

Conclusion

8. No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga N. Chernyshev whose telephone number is (571) 272-0870. The examiner can normally be reached on 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey J. Stucker can be reached on (571) 272-0911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Olga N. Chernyshev, Ph.D.

January 23, 2009

/Olga N. Chernyshev/
Primary Examiner, Art Unit 1649